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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

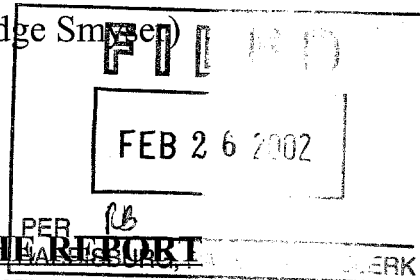
JERRY MASON,
Petitioner

v.

ROBERT W. MEYERS,
Superintendent,
Respondent

:
: Civil No. 1:00-CV-1490
:
: (Judge Rambo)

: (Magistrate Judge Smyser)



**PETITIONER'S OBJECTIONS TO THE REPORT
AND RECOMMENDATION OF THE MAGISTRATE JUDGE**

AND NOW comes the petitioner, Jerry Mason, by his attorney Daniel I. Siegel of the Federal Public Defender's Office, and files these Objections to the Report and Recommendation of the Magistrate Judge.

1. Petitioner Jerry Mason has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.
2. By report and recommendation dated February 20, 2002, the Magistrate Judge recommends that the petition be denied.
3. The petitioner has presented four claims of ineffective assistance of counsel.

4. The petitioner's first claim is that his trial counsel was ineffective for failing to investigate the facts and circumstances surrounding the in-court identification of the petitioner by the victim.

5. The Magistrate Judge recommends that relief be denied on this claim, finding that "the petitioner has not established that he was prejudiced by trial counsel's alleged failure to investigate the facts and circumstances surrounding the in-court identification of the petitioner by the victim." (Report and Recommendation, pg. 17).

6. Petitioner asserts that he was in fact prejudiced by trial counsel's ineffectiveness in this regard, and therefore objects to the recommendation of the Magistrate Judge.

7. The petitioner's second claim is that his trial counsel was ineffective in failing to investigate the existence of an alibi witness.

8. The Magistrate Judge recommends that relief be denied on this claim,

finding that the evidence does not establish counsel's ineffectiveness or that any purported ineffectiveness was prejudicial to the defense (Report and Recommendation, pgs. 19-20).

9. Petitioner asserts that counsel was in fact ineffective, that he was prejudiced by this ineffectiveness, and therefore objects to the recommendation of the Magistrate Judge.

10. The petitioner's third claim is that his trial counsel was ineffective by failing to conduct an investigation regarding the exact location of the assault.

11. The Magistrate Judge recommends against relief on this claim, finding that the petitioner has not shown that he was prejudiced by trial counsel's failure to conduct an investigation.

12. Petitioner asserts that he was in fact prejudiced by counsel's ineffectiveness, and therefore objects to the recommendation of the Magistrate Judge.

13. The petitioner's fourth claim is that his post-trial counsel labored under an

actual conflict of interest.

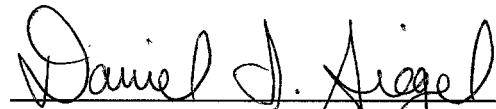
14. The Magistrate Judge recommends that relief be denied on this claim, arguing that an actual conflict has not been proven, and/or that the defendant was prejudiced by any such conflict (Report and Recommendation, pg. 22).

15. Petitioner asserts that there was an actual conflict of interest, that he was prejudiced by the actual conflict of interest, and therefore objects to the recommendation of the Magistrate Judge.

WHEREFORE, it is respectfully requested that the petition for writ of habeas corpus be granted.

Respectfully submitted,

Date: Feb. 26, 2002



Daniel I. Siegel, Esquire
Asst. Federal Public Defender
100 Chestnut Street, Suite 306
Harrisburg, PA 17101
Attorney for Jerry Mason
Attorney ID # 38910

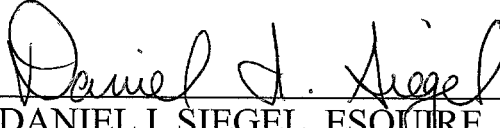
CERTIFICATE OF SERVICE

I, Daniel I. Siegel, of the Federal Public Defender's Office do hereby certify that on this date I served a copy of the foregoing **OBJECTIONS TO THE REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE** by placing the same in the United States mail, first class, in Harrisburg, Pennsylvania, addressed to the following:

Frank P. Barletta, Esquire
Assistant District Attorney
Luzerne County Courthouse
200 North River Street
Wilkes-Barre, PA 18711

Jerry Mason
Inmate No. BK-6012
SCI Rockview
PO Box A
Bellefonte, PA 16823

Date: Feb. 26, 2002



DANIEL I. SIEGEL, ESQUIRE
Asst. Federal Public Defender
Attorney for Jerry Mason